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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

| | | |
|--|---|-------------------------------|
| -----X | | |
| EL SOL BRANDS, INC. d/b/a R-BEST | : | Case No.: 07 CV 11562 (SHS) |
| TROPICALS; CARAVEO PAPAYAS, INC., | : | |
| | : | [ECF CASE] |
| Plaintiffs, | : | |
| | : | |
| - against - | : | MOTION FOR (1) DEFAULT |
| | : | JUDGMENT; AND (2) TO |
| | : | AMEND CASE CAPTION |
| PRIME PRODUCE GROUP, INC., a New York | : | |
| corporation; KYUNG HEE AN, an individual; | : | |
| JETS PRODUCE CORP., a New York | : | |
| corporation; JAY LEE, an individual; JOUNG | : | |
| LEE, an individual; M.Y. PRODUCE, INC., a | : | |
| New York corporation; MYONG KON KIM, | : | |
| an individual, a/k/a YOUNG KIM; and | : | |
| SUNG GON KIM, an individual, a/k/a SAM | : | |
| KIM, | : | |
| | : | |
| Defendants. | : | |
| | : | |
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TO THE HONORABLE SIDNEY H. STEIN
UNITED STATES DISTRICT COURT JUDGE:

EL SOL BRANDS, INC. d/b/a R-BEST TROPICALS and CARAVEO PAPAYAS, INC., plaintiffs herein ("Plaintiffs"), by their attorneys, Starr & Starr, PLLC, for their motion (the "Motion") for entry of a default judgment, pursuant to F.R.Civ.P. 55(b)(2) and Civil Rule 55.2, and to amend the case caption pursuant to F.R.Civ.P. 5(a), respectfully state as follows:

JURISDICTION

1. Jurisdiction of the subject matter of the action is based on federal question jurisdiction. The District Court has jurisdiction over the action pursuant to the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. §§ 499a-499q). 7 U.S.C. §499e(c)(5); 28 U.S.C. §1331.

REQUESTED RELIEF

2. Plaintiffs seeks the following relief: (i) entry of a default judgment, and (ii) amendment of the case caption to eliminate defendant "JAY LEE" as a separately named defendant and change the designation of defendant "JOUNG LEE" to "JOUNG LEE, an individual, a/k/a JAY LEE". The facts supporting the relief requested in the Motion are set forth in detail in the Declaration of Stephen Z. Starr In Support of Default Judgment and Amendment of Case Caption (the "Declaration") submitted herewith. As set forth in the Declaration the defendants have each been personally served with a Summons and Complaint by a special process server. Defendants' time to answer has expired and they have failed to appear.

3. The Clerk of the Court has been requested to note the defendants' default and, upon information and belief, the Clerk's Certificate of Default which has been submitted to the Clerk's Office unexecuted will have been executed and issued by the Clerk's Office prior to the submission of these motion papers to the Court.

4. Pursuant to F.R.Civ.P. 55(b)(2) and Civil Rule 55.2(a) entry of a default judgment against the defendants is warranted. The defendants are not infants, incompetent persons, or persons in the military service of the United States.

5. With respect to the amendment of the caption to eliminate defendant "JAY LEE" as a separately named defendant and change the designation of defendant "JOUNG LEE" to "JOUNG LEE, an individual, a/k/a JAY LEE", F.R.Civ.P. 15(a) provides that "a party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served." (emphasis added). While such amendment without court approval is permitted, it is not mandatory. A party may request a court order to amend the pleadings. Here the Plaintiffs submit that rather than voluntarily amending and re-serving an amended complaint it will be more efficient and expedient if the Court grants the amendment in connection with this motion. A proposed form of order amending the caption is submitted herewith.

WHEREFORE, for the reasons set forth above, Plaintiffs respectfully request that this Court grant the Motion and enter a default judgment against the defendants in the form of the proposed default judgment submitted herewith and grant such other and further relief as this Court deems just and appropriate.

DATED: New York, New York
February 9, 2008

STARR & STARR, PLLC
Attorneys for Plaintiffs
El Sol Brands, Inc. d/b/a R-Best
Tropicals; Caraveo Papayas, Inc.

By:


Stephen Z. Starr (SS-3765)

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Hearing Date/Time:
February 29, 2008 at 9:30 a.m.
Objection Deadline:
February 21, 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
EL SOL BRANDS, INC. d/b/a R-BEST :
TROPICALS; CARAVEO PAPAYAS, INC., :

Plaintiffs, :

- against - :

PRIME PRODUCE GROUP, INC., a New York :
corporation; KYUNG HEE AN, an individual; :
JETS PRODUCE CORP., a New York :
corporation; JAY LEE, an individual; JOUNG :
LEE, an individual; M.Y. PRODUCE, INC., a :
New York corporation; MYONG KON KIM, :
an individual, a/k/a YOUNG KIM; and :
SUNG GON KIM, an individual, a/k/a SAM :
KIM, :

Defendants. :

Case No.: 07 CV 11562 (SHS)

[ECF CASE]

**NOTICE OF MOTION FOR (1)
(1) DEFAULT JUDGMENT; AND
(2) TO AMEND CASE CAPTION**

To: Defendants

**PLEASE TAKE NOTICE THAT THE ATTACHED LEGAL PAPERS ARE
BEING SERVED ON YOU BECAUSE YOU HAVE FAILED TO APPEAR IN A LAWSUIT
BROUGHT AGAINST YOU.**

PLEASE TAKE FURTHER NOTICE that, upon the annexed motion (the
"Motion"), EL SOL BRANDS, INC. d/b/a R-BEST TROPICALS and CARAVEO PAPAYAS,
INC., plaintiffs herein, by and through their attorneys, Starr & Starr, PLLC, will move before

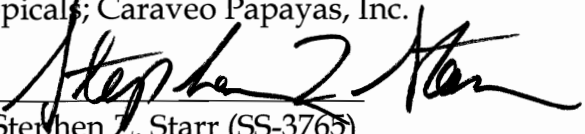
the Honorable Sidney H. Stein, United States District Court Judge, on February 29, 2008 at 9:30 a.m. in Courtroom 23A, of the U.S. District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007, or as soon thereafter as counsel may be heard, pursuant to F.R.Civ.P. 55(b)(2) and Civil Rule 55.2 for entry of a default judgment, and to amend the case caption pursuant to F.R.Civ.P. 5(a), and granting such other and further relief as this Court deems just and appropriate.

PLEASE TAKE FURTHER NOTICE that responses or objections to the Motion, if any, must be in writing, shall conform to the Federal Rules of Civil Procedure and the Local Civil Rules, and shall be filed with the United States District Court for the Southern District of New York electronically in accordance with Court's Procedures for Electronic Case Filing and shall be served upon the attorneys for plaintiff (Starr & Starr, PLLC, Attn: Stephen Z. Starr, Esq., 260 Madison Ave., 17th Fl., New York, NY 10016) **no later than February 21, 2008**.

FAILURE TO RESPOND TO THIS MOTION MAY RESULT IN THE COURT GRANTING THE MOTION AND ENTRY OF A DEFAULT JUDGMENT AGAINST YOU. IF YOU ARE A CORPORATION YOU CAN ONLY APPEAR THROUGH AN ATTORNEY. IF YOU ARE AN INDIVIDUAL, YOU MUST APPEAR BY AN ATTORNEY OR PRO SE. IN EITHER EVENT, YOU MUST TAKE SOME ACTION OR A JUDGMENT MAY BE ENTERED AGAINST YOU. ENTRY OF A JUDGMENT MAY RESULT IN A LEVY AGAINST YOUR PROPERTY.

DATED: New York, New York
February 9, 2008

STARR & STARR, PLLC
Attorneys for Plaintiffs
El Sol Brands, Inc. d/b/a R-Best
Tropicals; Caraveo Papayas, Inc.

By: 
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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 EL SOL BRANDS, INC. d/b/a R-BEST :
 TROPICALS; CARAVEO PAPAYAS, INC., :

Plaintiffs, :

- against - :

PRIME PRODUCE GROUP, INC., a New York :
 corporation; KYUNG HEE AN, an individual; :
 JETS PRODUCE CORP., a New York :
 corporation; JAY LEE, an individual; JOUNG :
 LEE, an individual; M.Y. PRODUCE, INC., a :
 New York corporation; MYONG KON KIM, :
 an individual, a/k/a YOUNG KIM; and :
 SUNG GON KIM, an individual, a/k/a SAM :
 KIM, :

Defendants. :

Case No.: 07 CV 11562 (SHS)

[ECF CASE]

**CLERK'S CERTIFICATE
 OF DEFAULT**

-----X
 I, J. MICHAEL MCMAHON, Clerk of the United States District Court for
 the Southern District of New York, do hereby certify that this action commenced on
 December 26, 2007 with the filing of a summons and complaint, a copy of the summons
 and complaint was served on all of the defendants (with the exception of named
 defendant JAY LEE) as follows (i) PRIME PRODUCE GROUP, INC. by personal service
 on Kyung Hee An, an individual apparently in charge of defendant and believed to be

President of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (ii) KYUNG HEE AN, an individual, by personal service upon her at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (iii) JETS PRODUCE CORP. by personal service on Jay Lee, an individual apparently in charge of defendant and believed to be President or Officer of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (iv) JOUNG LEE, an individual, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (v) M.Y. PRODUCE, INC., by personal service on Myong Kon Kim, an individual apparently in charge of defendant and believed to be President of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (vi) MYONG KON KIM, an individual, a/k/a YOUNG KIM, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; and (vii) SUNG GON KIM, an individual, a/k/a SAM KIM, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008.

I further certify that the docket entries indicate that defendants have not filed an answer or otherwise moved with respect to the complaint herein. The default of defendants is hereby noted.

Dated: New York, New York

J. MICHAEL MCMAHON
Clerk of the Court

By: _____
Deputy Clerk

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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 EL SOL BRANDS, INC. d/b/a R-BEST :
 TROPICALS; CARAVEO PAPAYAS, INC., :

Plaintiffs, :

- against - :

PRIME PRODUCE GROUP, INC., a New York :
 corporation; KYUNG HEE AN, an individual; :
 JETS PRODUCE CORP., a New York :
 corporation; JAY LEE, an individual; JOUNG :
 LEE, an individual; M.Y. PRODUCE, INC., a :
 New York corporation; MYONG KON KIM, :
 an individual, a/k/a YOUNG KIM; and :
 SUNG GON KIM, an individual, a/k/a SAM :
 KIM, :

Defendants. :

Case No.: 07 CV 11562 (SHS)

[ECF CASE]

**ORDER AMENDING
 CASE CAPTION**

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This action having been commenced on December 26, 2007 against the above-captioned defendants, and the Court having been advised that defendant JOUNG LEE is also known as JAY LEE, and plaintiffs having sought to amend the caption in this action pursuant to F.R.Civ.P. 15(a) to change defendant "JOUNG LEE" to defendant "JOUNG LEE, an individual, a/k/a JAY LEE", and good cause having been shown therefore, it is

ORDERED, ADJUDGED AND DECREED: That the designation of defendant JOUNG LEE in the caption in this action be and hereby is amended to reflect his designation as "JOUNG LEE, an individual, a/k/a JAY LEE"; and it is further

ORDERED, ADJUDGED AND DECREED: That the designation of defendant JAY LEE as a separate defendant in the caption be and hereby is eliminated; and it is further

ORDERED, ADJUDGED AND DECREED: That the caption utilized in this action henceforth shall be as follows:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
EL SOL BRANDS, INC. d/b/a R-BEST
TROPICALS; CARAVEO PAPAYAS, INC.,

Plaintiffs,

- against -

PRIME PRODUCE GROUP, INC., a New York :
corporation; KYUNG HEE AN, an individual; :
JETS PRODUCE CORP., a New York :
corporation; JOUNG LEE, an individual, :
a/k/a JAY LEE; M.Y. PRODUCE, INC., a :
New York corporation; MYONG KON KIM, :
an individual, a/k/a YOUNG KIM; and :
SUNG GON KIM, an individual, a/k/a SAM :
KIM, :

Defendants.

Case No.: 07 CV 11562 (SHS)
[ECF CASE]

-----X

Dated: New York, New York

U.S.D.J.

This document was entered on the
docket on _____.

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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

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| -----X | | |
| EL SOL BRANDS, INC. d/b/a R-BEST | : | Case No.: 07 CV 11562 (SHS) |
| TROPICALS; CARAVEO PAPAYAS, INC., | : | |
| | : | [ECF CASE] |
| Plaintiffs, | : | |
| | : | |
| - against - | : | DEFAULT JUDGMENT |
| | : | |
| PRIME PRODUCE GROUP, INC., a New York | : | |
| corporation; KYUNG HEE AN, an individual; | : | |
| JETS PRODUCE CORP., a New York | : | |
| corporation; JOUNG LEE, an individual, | : | |
| a/k/a JAY LEE; M.Y. PRODUCE, INC., a | : | |
| New York corporation; MYONG KON KIM, | : | |
| an individual, a/k/a YOUNG KIM; and | : | |
| SUNG GON KIM, an individual, a/k/a SAM | : | |
| KIM, | : | |
| | : | |
| Defendants. | : | |
| | : | |
| -----X | | |

EL SOL BRANDS, INC. d/b/a R-BEST TROPICALS and CARAVEO PAPAYAS, INC., plaintiffs herein ("Plaintiffs"), having commenced this action on December 26, 2007 by the filing of the Summons and Complaint, and a copy of the Summons and Complaint having been served on each of the defendants as follows: (i) PRIME PRODUCE GROUP, INC. by personal service on Kyung Hee An, an individual apparently in charge of defendant and believed to be President of defendant, at the

business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (ii) KYUNG HEE AN, an individual, by personal service upon her at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (iii) JETS PRODUCE CORP. by personal service on Jay Lee, an individual apparently in charge of defendant and believed to be President or Officer of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (iv) JOUNG LEE, an individual, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (v) M.Y. PRODUCE, INC., by personal service on Myong Kon Kim, an individual apparently in charge of defendant and believed to be President of defendant, at the business premises of defendant at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; (vi) MYONG KON KIM, an individual, a/k/a YOUNG KIM, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008; and (vii) SUNG GON KIM, an individual, a/k/a SAM KIM, by personal service upon him at 264-65 Row B, Hunts Point Market, Bronx, NY 10474 on December 27, 2007, with proof of service thereof filed on February 5, 2008, and the defendants not having answered the Complaint, and the time for answering the Complaint having expired, and the Clerk having noted the Defendants' default, it is

ORDERED, ADJUDGED AND DECREED: that plaintiff EL SOL BRANDS, INC. d/b/a R-BEST TROPICALS have judgment against each of the following defendants: JETS PRODUCE CORP.; M.Y. PRODUCE, INC.; JOUNG LEE, an individual, a/k/a JAY LEE; MYONG KON KIM, an individual, a/k/a YOUNG KIM; and SUNG GON KIM, an individual, a/k/a SAM KIM, and each of them, jointly and severally, in the liquidated amount of \$53,363, plus interest at 9% from December 26, 2007 (the date of filing this action) to February 8, 2007 amounting to \$567.17, plus costs of \$350, amounting in all to \$54,280.17; and it is further.

ORDERED, ADJUDGED AND DECREED: that plaintiff CARAVEO PAPAYAS, INC. have judgment against each of the following defendants: PRIME PRODUCE GROUP, INC.; M.Y. PRODUCE, INC.; KYUNG HEE AN, an individual MYONG KON KIM, an individual, a/k/a YOUNG KIM; and SUNG GON KIM, an individual, a/k/a SAM KIM, and each of them, jointly and severally, in the liquidated amount of \$48,519.50, plus interest at 9% from December 26, 2007 (the date of filing this action) to February 8, 2007 amounting to \$515.57, plus costs of \$350, amounting in all to \$49,385.07.

Dated: New York, New York

U.S.D.J.

This document was entered on the docket on _____.